

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND COUNCIL  
OF THE CITY OF GAITHERSBURG GRANTING APPROVAL  
OF Z-2730-2013, TO REZONE 8.42 ACRES OF LAND FROM THE I-3 (INDUSTRIAL  
AND OFFICE PARK) ZONE TO THE MXD (MIXED USE DEVELOPMENT) ZONE IN  
ACCORDANCE WITH §24-196 (MAP AMENDMENTS) AND §24-160D.9(a) AND §24-  
160D.10(a) OF THE CITY CODE. THE PROPERTY IS LOCATED AT 101 ORCHARD  
RIDGE DRIVE, GAITHERSBURG, MARYLAND

**Z-2730-2013**

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that they find the following facts from the evidence of record in Zoning Map Amendment Application Z-2730-2013:

A. Application Z-2730-2013, MedImmune LLC, filed May 24, 2013 requests the rezoning of 8.42 acres of from the I-3 (Industrial and Office Park) Zone to the MXD (Mixed Use Development) Zone. The subject property is located at 101 Orchard Ridge Drive within the Medimmune campus.

B. The subject property to be rezoned is defined as:

Being a parcel of land located in the Ninth (9<sup>th</sup>) Election District in Montgomery County, Maryland, hereinafter described in, through, over and across the property conveyed by Foulger Land Orchard Ridge 2006, LLC and Argo Orchard Ridge, LC to Medimmune, LLC by deed dated December 19, 2008 and recorded among the Land Records of Montgomery County, Maryland in Liber 36338 at Folio 269; and also being Lot 5 as delineated on a plat of subdivision entitled "**QUINCE ORCHARD CORPORATE CENTER** " as recorded among said Land Records as Plat No. 15527 and being more particularly described by Macris, Hendricks and Glascock, P. A. on April 26, 2013 in Plat 15527 Datum as follows:

Beginning for said parcel of land at a point, said point being on the southerly Right-of-Way Limits of Quince Orchard Road (150' R/W), said point also being the beginning of the South 89°21'48" East, 674.87 foot line as delineated on the aforementioned Plat No. 15527, then binding with said southerly Right-of-Way Limits and said line

1. South 89°21'48" East, 674.87 feet to a point, then leaving said southerly Right-of-Way Limits and binding with the westerly Right-of-Way Limits of Twin Lakes Drive (110' R/W) and said platted limits of Lot 5
2. South 44°47'54" East, 121.99 feet to a point, then
3. Due South, 302.00 feet to a point, then

4. South 41°03'54" West, 77.98 feet to a point, then leaving said westerly Right-of-Way Limits of Twin Lakes Drive and binding with the northerly Right-of-Way Limits of Sioux Lane (110' R/W) and said platted limits of Lot 5
5. 42.08 feet along the arc of a non-tangent curve deflecting to the left, with a radius of 916.28 feet and a chord bearing and distance of South 82°42'45" West, 42.08 feet to a point, then
6. South 81°23'50" West, 326.74 feet to a point, then
7. 597.56 feet along the arc of a tangent curve deflecting to the right, with a radius of 345.00 feet and a chord bearing and distance of North 48°58'59" West, 525.62 feet to a point, then
8. North 00°38'12" East, 114.68 feet to a point, then
9. North 45°38'12" East, 70.71 feet to the point of beginning; containing an area of 366,990 square feet or 8.4249 acres of land.

C. The 6<sup>th</sup> Amendment to the X-129 Annexation Agreement was approved March 8, 2013. The amendment between MedImmune and the City of Gaithersburg revised the density of development allowed on the MedImmune properties; dedicated new City parkland; and included transportation and community improvements among other details.

Section 5 of the Amendment states: "*Right to Develop MedImmune Properties*. "...The concept "bubble plan" attached hereto as Exhibit A shall constitute an approved sketch plan for the MedImmune Properties..."

Section 8 of the Amendment states states:

"*Rezoning of Summit Property*. MedImmune shall seek to rezone the Summit Property from the current I-3 Zone to the MXD Zone prior to or concurrent with any development application submitted for density greater than the currently permitted 1.95 million square feet. The City acknowledges that MXD zoning of the Summit Property is in conformance with the Master Plan and, subject to compliance with the provisions of Chapter 24 of the City Code, is an appropriate zoning classification of the Property. The City further agrees that the density and intensity of development calculations under City Code Section 24-160D.4 related to any subsequent MedImmune development plan will presume successful rezoning of the Summit Property. The City acknowledges that the Summit Property satisfies the MXD Zone development standards and that no further dedications, requirements, or compliance with development standards are necessary to accomplish the rezoning."

D. A joint public hearing conducted by the Mayor & City Council and Planning Commission on Z-2730-2013 was held July 1, 2013. The Applicant gave a brief presentation outlining details of the approved sketch plan and the applicable

terms of the 6<sup>th</sup> X-129 Amendment. There were no questions from either the Council or Commission and there was no public testimony.

E. The Planning Commission's Z-2730-2013 record closed at 5PM Monday July 15, 2013. The Commission made its recommendation on July 24, 2013, and forwarded their recommendation of approval of the rezoning and the Sketch Plan to the Mayor and City Council for Z-2730-2013. The Mayor & City Council closed their record at 5PM Wednesday July 31, 2013.

F. During their policy discussion meeting on August 19, 2013, the City Council carefully reviewed the evidence of record and considered all submitted testimony, documents and correspondence presented, including the Planning Commission's recommendation for approval and terms of the 6<sup>th</sup> X-129 Amendment, and made the following findings with respect to Application Z-2730-2013 as required by §24-160D.10(a) of the City Code of the City Code:

1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone

*Sec. 24-160D.2. Minimum location and development requirements:*

*(a) Master plan. No land shall be classified in the Mixed Use Development Zone unless the land is within an area for which there is an approved and adopted master plan which recommends mixed use development for the land which is the subject of the application, or unless the proposed development otherwise satisfies the purposes and objectives of the MXD Zone. Approval of the MXD Zone for land which is not recommended for this zone in an approved master plan shall require the affirmative vote of four (4) members of the city council.*

The City's 1997 Master Plan recommends the Property as industrial-research-office in the I-3 zone; however, this recommendation pre-dates the development of the MedImmune campus and the subsequent 6<sup>th</sup>X-129 Amendment which states, "The City acknowledges that MXD zoning of the Summit Property is in conformance with the Master Plan and, subject to compliance with the provisions of Chapter 24 of the City Code, is an appropriate zoning classification of the Property."

*(b) Minimum area. No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone. Such parcels are not required to contain multiple uses but should contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).*

The subject property is an I-3 zoned parcel surrounded entirely by properties classified in the MXD zone. This parcel will contribute to the greater Quince Orchard Park and specifically to the MedImmune Campus development vision set forth in the approved sketch plan.

*(c) Location. Such land shall be located adjacent to and readily accessible from existing or planned highways that are in an approved construction program and are adequate to service the proposed development. It is intended that adequate access be available to such sites so that traffic does not have an adverse impact on the surrounding area or cause internal circulation or safety problems.*

The subject property is currently fully constructed and accessible from both MD 124, Quince Orchard Road and from MD 119, Great Seneca Highway by way of Orchard Ridge Drive.

*(d) Public water and sewer. No development shall be permitted unless served by public water and sewer.*

This is a developed parcel and is currently served by both water and sewer.

*(e) Signage. Signage shall be coordinated between adjoining uses and be thematic in approach, in accord with the purposes of this zone and overall character of the surrounding area.*

Signage will be evaluated at such time as a redevelopment application is submitted and will be coordinated to be harmonious with existing and proposed signage throughout the MedImmune campus.

*(f) Frontage on public streets. Anything to the contrary notwithstanding in any regulation in this Code, lots in this zone shall not be required to have direct access to a public street provided that such condition will promote the creation of affordable housing, or will be designed in such a way as to foster the purposes and objectives of this zone, provided that satisfactory access to a public street is provided over private rights-of-way.*

The subject property has frontage on Quince Orchard Road, Orchard Ridge Drive, and Twin Lakes Drive.

2) The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements contained in said master plan; and

The City's 1997 Master Plan recommends the Property as industrial-research-office in the I-3 zone; however, this recommendation pre-dates the development of the MedImmune campus and the subsequent 6<sup>th</sup>X-129 Amendment which states, "The City acknowledges that MXD zoning of the Summit Property is in conformance with the Master Plan and, subject to compliance with the provisions of Chapter 24 of the City Code, is an appropriate zoning classification of the Property."

3) The application and sketch plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas.

The subject property has been developed for over 25 years. The existing development and uses are compatible with the existing and proposed surrounding uses and allowed under the MXD Zone. The sketch plan approved under the 6<sup>th</sup>X-129 Amendment, including the subject property, creates a holistic integrated vision for the MedImmune Campus.

### Conclusion

Application Z-2730-2013 conforms to the purpose of the MXD Zone and the densities and uses proposed in the sketch plan are harmonious and consistent with the proposed surrounding development. The proposed rezoning will facilitate the future growth of MedImmune and is in conformance with the terms and conditions agreed to in the 6<sup>th</sup> Amendment to the X-129 Annexation Agreement. Therefore, this property is appropriate for rezoning to MXD, Mixed Use Development.

Based upon the reasons and findings cited above, application Z-2730-2013 is granted.

ADOPTED by the City Council this 19<sup>th</sup> day of August, 2013.

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Sidney A. Katz, Mayor and President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 19<sup>th</sup> day of August, 2013. APPROVED by the Mayor of the City of Gaithersburg, this 19<sup>th</sup> day of August, 2013.

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Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, on the 19<sup>th</sup> day of August, 2013, and that the same was approved by the Mayor of the City of Gaithersburg on the 19<sup>th</sup> day of August, 2013. This Ordinance will become effective on the 9<sup>th</sup> day of September, 2013.

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Tony Tomasello, City Manager